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RUEHZL/EUROPEAN POLITICAL COLLECTIVE  
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SUBJECT: KAZAKHSTAN: "ALMA-ATA INFO" EDITOR LOSES TWO COURT  
BATTLES OVER MEDIA FREEDOM

REF: (A) ASTANA 1399  
(B) ASTANA 0351  
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11. (U) Sensitive but unclassified. Not for public Internet.

12. (SBU) SUMMARY: On August 13, Kazakhstan's Supreme Court ruled against "Alma-Ata Info" newspaper and upheld a lower court's ruling that suspended the newspaper for three months for publishing allegedly classified documents. This ruling is related to -- but separate from -- the case against "Alma-Ata Info" owner and editor-in-chief Ramazan Yesergepov. On August 8, in a closed and separate process, Taraz city court found Yesergepov guilty of divulging classified documents and sentenced him to three years in prison. Yesergepov's wife announced his intention to appeal the verdict, but no date for the appeal has been set. Local and international civil society representatives and opposition activists have sharply criticized the ruling, which received wide coverage in local print and some TV media. Both local and international print media picked up the critical statements made by Reporters Without Borders, Freedom House, and the Organization for Security and Cooperation in Europe's (OSCE) Representative on Freedom of the Media Miklos Haraszti. The Ambassador has raised U.S. concerns about the case with the presidential administration. END SUMMARY.

SUPREME COURT RULES AGAINST "ALMA-ATA INFO"

12. (SBU) On August 13, Kazakhstan's Supreme Court upheld a lower court's ruling that suspended the newspaper "Alma-Ata Info" for three months for publishing allegedly classified documents. The original suspension ruling dates back to early January, when the newspaper's owner and editor-in-chief Ramazan Yesergepov was separately charged with dissemination of classified documents (reftels B-E), a crime of which he was convicted on August 8. Contrary to some media reporting, the Supreme Court's ruling addressed solely the suspension of the newspaper and has no immediate bearing on the case against Yesergepov, or on his appeal.

13. (SBU) At the hearing before the Supreme Court, "Alma-Ata Info"

representatives argued that the suspension was illegal because the documents published by the paper should not have been classified to begin with. Kazakhstanian legislation outlines several kinds of government information that can be classified as secret, in particular, information on covert law enforcement operations and information dealing with national security. The law also stipulates that documents showing the wrongdoing of government employees cannot be kept confidential. The newspaper's representatives argued that the documents published did not contain any information that could be classified as secret and, in fact, contained proof of wrongdoing on the part of the Taraz KNB. The Supreme Court rejected these arguments and moved swiftly to deny the newspaper's appeal.

#### EARLIER, YESERGEPOV SENTENCED AT CLOSED HEARING

14. (SBU) In a separate process, on August 8, the Taraz city court judged Yesergepov guilty under Articles 172 and 339 of Kazakhstan's Criminal Code for allegedly gathering and divulging confidential information. The court, which read its ruling behind closed doors, also banned him from publishing a newspaper for two years after his release. The trial has been closed to the public since it began in April on the grounds that it concerned state secrets. Nonetheless, several journalists, civil society leaders, and an embassy representative traveled from Almaty to Taraz to observe the sentencing hearing. Yesergepov's wife, Raushan Yesergepova, announced on August 11 that Yesergepov plans to appeal the verdict, but the date of the appeal has not yet been set.

15. (SBU) Yesergepov's co-defendants were sentenced at the same hearing on August 8. Sultan Makhmadov, the Taraz alcohol magnate accused of passing confidential KNB documents to Yesergepov (reftel C), was sentenced to seven years in prison; Bolat Zhanuzakov, the

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former KNB officer who allegedly sold the documents to Makhmadov, was sentenced to nine years; and Yerlan Sandybayev, head of security for Makhmadov and whom the prosecution accused of serving as the go-between between Makhmadov and the KNB, was sentenced to eight years. In an interesting twist, the night before the hearing, Makhmadov disappeared from his house, where he had been under house arrest. He was apprehended the next day at the Bishkek airport and returned to Taraz in time for his sentencing. No information was available on how he was able to flee from his KNB guards.

#### DATE OF HEARING A MOVING TARGET

16. (SBU) The date of Yesergepov's sentencing hearing was a moving target for more than a week. The presiding judge rescheduled the hearing four times before finally holding it on Saturday, August 8. Originally scheduled to take place on August 7, it was postponed late in the evening the night before, causing local and international observers coming from Almaty to turn around mid-way. The presiding judge postponed the hearing until Monday morning, then again until Tuesday afternoon, before announcing his decision to hold it on Saturday morning. Yesergepov's wife shared her suspicions with Poloff that the judge was trying to limit the number of observers at the trial.

#### SHARP CRITICISM OF THE VERDICT...

17. (SBU) At a press conference in Almaty on August 11, journalists and civil society activists strongly criticized the court proceedings and the ruling. Rozlana Taukina of the NGO Journalists in Trouble argued that Yesergepov was simply fulfilling his journalistic duty in uncovering corruption. She listed the violations that allegedly occurred during Yesergepov's detention and trial, including the fact that he was denied bail, and the fact that his defenders were not granted access to his file, because they lacked the necessary security clearances. Taukina expressed hope that the Court of Appeals will repeal the ruling and give Yesergepov a suspended sentence. In an article published on the website of the opposition newspaper "Respublika," independent journalist Sergey Duvanov praised Yesergepov for fulfilling his duty in uncovering official corruption and condemned the courts for punishing him for "airing the KNB's dirty laundry."

¶8. (SBU) The OSCE's Representative on Freedom of the Media, Miklos Haraszti, sent a letter to the Minister of Foreign Affairs Marat Tazhin, criticizing Yesergepov's sentence as a violation of the OSCE's commitment to media freedom, and urging Kazakhstan to overturn the verdict. Criminalizing journalists for breach of secrecy "leaves investigative journalism without one of its most important tools: the liberty to go beyond official stonewalling," Haraszti's letter said.

... GETS BROAD MEDIA COVERAGE

¶9. (SBU) The press conference by Yesergepov's defenders was widely covered by the opposition print media, some local television stations, and several international media outlets, including the Associated Press, RFE/RL, BBC, and Agence France Press. Local and international print media also printed statements made by OSCE's Haraszti and international NGOs, including Reporters Without Borders, which called Yesergepov's sentence "outrageous," and urged that it be overturned by the court of appeals, and Freedom House, which referred to the trial as "shameful conduct not befitting" the future Chairman in Office of the OSCE.

OPPOSITION, CIVIL SOCIETY PLAN PROTEST ACTIONS

¶10. (SBU) Several journalists and opposition activists set up an organization called "Headquarters in Support of Ramazan Yesergepov" and announced plans for several protest actions, including public demonstrations, suspension of publication of newspapers, internet-protests, and possible hunger strikes. Four opposition newspapers -- "Respublika," "Vzglyad," "Alga," and "Obshestvennaya Pozitsiya" -- declared their intention to publish a blank page in the papers' next editions in support of Yesergepov. Several

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activists from opposition parties joined the "Headquarters in Support of Ramazan Yesergepov," and opposition party Azat released a statement calling for Yesergepov's immediate release and warning of the "growing role" of KNB in domestic politics.

¶11. (SBU) COMMENT: We agree with Haraszti that the sentence against Yesergepov is incongruent with Kazakhstan's OSCE commitments on media freedom. In an August 5 interview with the newspaper "Vremya," the Ambassador expressed concern that libel lawsuits against media organizations and journalists in Kazakhstan take the country away from European standards and urged the Kazakhstani authorities to apply international norms in resolving such issues. The Ambassador also raised Yesergepov's case in his August 12 meeting with Kairat Sarybai, the President's Foreign Policy Advisor (reftel A). We will continue to closely monitor the proceedings of Yesergepov's appeal. END COMMENT.

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